

TTAB

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 2,119,857
Registered December 9, 1997



10-04-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #70

John M. Macaluso Revocable Trust UDT
dated 9/5/97

Petitioner

v.

Gregory S. Higgins,

Registrant

Cancellation No.:

Reg. No.: **2,119,857**

Mark: **GORGEOUS**

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TRADEMARK TRIAL AND
APPEAL BOARD

PETITION FOR CANCELLATION

John M. Macaluso Revocable Trust UDT dated 9/5/97, a California trust, located at 2140 West 139th Street, Gardena, California, 90249, (hereafter, "Petitioner"), believes that it is being or will be damaged by the continued registration of the designation GORGEOUS as

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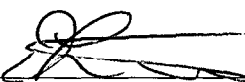
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CERTIFICATE OF EXPRESS MAILING

"Express Mail" label number: EL 873276799 US

Deposit Date: October 4, 2002

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated above, and is addressed: Assistant Commissioner of Patents and Trademarks, 2900 Crystal Drive, Arlington, VA 22202, Box TTAB Fee.


Doug Lipstone, October 4, 2002

shown in Registration No. 2,119,857 (hereafter, the "Registration"). Therefore, Petitioner hereby petitions for the cancellation of the Registration.

As grounds for this petition it is alleged that:

1. Petitioner filed an application for Federal registration of the mark GORGEOUS which application was assigned Serial No. 76/352,467 (the "Application"). The aforesaid application listed the goods covered as "Clothing, namely jackets, sweaters, vests, sweat shirts, sweat pants, shirts, blouses, t-shirts, pants, shorts, skirts, skorts, dresses, swimwear, hats and shoes".
2. Petitioner has a bona fide intent to use the mark GORGEOUS in commerce upon the goods listed in the Application.
3. On April 4, 2002, an office action was mailed to Petitioner pursuant to which the Application was initially refused registration. The Examining Attorney cited as a cause for such refusal the existence of the Registration which is identified in the records of the Patent and Trademark Office as being registered to Gregory S. Higin (the "Registrant"), an individual, located at 6799 Inyo Place, Alta Loma, California, 91701. To the best of Petitioner's knowledge, this is the name and address of the current owner of the Registration.
4. The Registration lists the goods covered thereby as "Clothing, namely t-shirts" and "Entertainment services, in the nature of musical performances by a rock group, music publishing services and record production services."
5. On information and belief, the Registration has been abandoned.
6. On information and belief, the Registration has been abandoned as Registrant ceased use of Registrant's mark GORGEOUS with an intention not to resume use.

7. On information and belief, the Registration has been abandoned as Registrant ceased using Registrant's mark GORGEOUS more than three (3) years ago.

8. As a result of the foregoing, Petitioner will be seriously and irreparably damaged by the continuance of the Registration as the Application will be denied registration and the continuance of the Registration will impair Petitioner's rights to the mark GORGEOUS.

WHEREFORE, Petitioner prays that the Registration be cancelled and that this Petition for Cancellation be sustained in the favor of Petitioner.

Dated: October 4, 2002
Los Angeles, CA

BUCHALTER, NEMER, FIELDS & YOUNGER
A Professional Corporation

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October 4, 2002

Mark: **GORGEOUS**
Registration Number: **2,119,857**

Via Express Mail
Label No. EL 873276799 US

Assistant Commissioner of
Patents and Trademarks
2900 Crystal Drive
Arlington, VA 22202
Box TTAB Fee



10-04-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #70

Re: GORGEOUS (Reg. No. 2,119,857)

Dear Sir or Madam:

Enclosed, please find an original and three (3) copies of a Petition For Cancellation against Registration No. 2,119,857, for the mark GORGEOUS. Also enclosed please find a check for \$600.00 for the filing fee, and a return postcard to acknowledge receipt of this package. If additional fees are required, authorization is hereby given to draw such fees from deposit account number 500977.

If additional information or documentation is required, please feel free to contact us.

Very truly yours,

BUCHALTER, NEMER, FIELDS & YOUNGER
A Professional Corporation

Douglas M. Lipstone

DML:tbs
Enclosures

CC: Janet Edwards

LA 16724_1.WPD 10/4/02